

**Agenda Of The SPECIAL Meeting – Oversight Board for the Successor Agency to the
Redevelopment Agency of the City of National City
Council Chambers
Civic Center
1243 National City Boulevard
National City, California
Tuesday – December 19, 2012 – 3:00 P.M.**

Open To The Public

Please complete a request to speak form prior to the commencement of the meeting and submit it to the Oversight Board Secretary.

It is the intention of your National City Oversight Board to be receptive to your concerns in this community. Your participation in local government will assure a responsible and efficient City of National City. We invite you to bring to the attention of the Board Chairman any matter that you desire the National City Oversight Board to consider. We thank you for your presence and wish you to know that we appreciate your involvement.

ROLL CALL

Pledge of Allegiance to the Flag by Chairman Ron Morrison

Public Oral Communications (Three-Minute Time Limit)

NOTE: Pursuant to state law, items requiring National City Oversight Board action must be brought back on a subsequent National City Oversight Board Agenda unless they are of a demonstrated emergency or urgent nature.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the City Clerk's Office at (619) 336-4228 to request a disability-related modification or accommodation. Notification 24-hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

**It is Requested That All Cell Phones
And Pagers Be Turned Off During The Meetings**

NEW BUSINESS

1. Review of State Department of Finance (DOF) final determination letter regarding due diligence review (DDR) or low and moderate income housing fund (LMIHF). Consideration of options available to the Successor Agency for responding to demands of DOF.

Adjourn to the next regular adjourned meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency scheduled on January 16, 2013 at 3:00 p.m. in Council Chambers, Civic Center.



**DEPARTMENT OF
FINANCE**

EDMUND G. BROWN JR. - GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3705 ■ WWW.DCF.CA.GOV

December 14, 2012

Mr. Brad Raulston, Executive Director
City of National City
1243 National City Blvd.
National City, CA 91950

Dear Mr. Raulston:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 7, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of National City (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 18, 2012. Finance issued a LMIHF DDR determination letter on November 7, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer Session was held on December 4, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance continues to believe the adjustments made to the DDR's stated balance of LMIHF available for distribution to the taxing entities is appropriate. HSC section 34179.6 (d) authorizes Finance to make these adjustments. We maintain the adjustments continue to be necessary for the following reason:

The Agency contends the retention of current balances is necessary in order to meet obligations related to the WI-TOD project due in ROPS periods covering fiscal year 2012-13. Finance originally denied the Agency's request to retain \$15,873,200 due to a lack of evidence there would be insufficient property taxes to pay the specified obligations. During the Meet and Confer process, the Agency provided additional information including a projection of annual revenue and spending requirements. Upon review of the additional information, Finance has concluded that although the Agency contends they will experience a deficit in ROPS periods through December 2015, there should be sufficient funds to cover future obligations. This determination is further supported by the ROPS III Meet and Confer process where the WI-TOD project items were determined to be unenforceable.

Specifically, the Agency contends the WI-TOD items are in continuance of a Development and Disposition Agreement (DDA) between the former RDA and a third party dated June 21, 2011. Further review of the DDA shows the Agency is not required to perform these items; therefore, these are not enforceable obligations and not eligible for payment from the LMIHF.

HSC provides successor agencies with various methods to address short term cash flow issues, should they occur. These may include refinancing debt pursuant to HSC section 34177.5 (a), requesting a loan from the city pursuant to HSC section 34173 (h), or accumulating reserves for future obligations when a future balloon or uneven payment is expected. The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation.

Since the Agency has alternatives to address short term cash flow shortages, Finance deems it is not necessary for the Agency to retain the requested funds.

As such, the Agency's LMIHF balance available for distribution to the affected taxing entities continues to be \$6,155,638 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (7,454,994)
Finance Adjustments	
Add:	
Requested retained balance not supported	15,873,200
Approved ROPS items	(2,262,568)
Total LMIHF available to be distributed:	\$ 6,155,638

This is Finance's final determination of the LMIHF balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Mr. Raulston
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Pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter and Finance's Housing Assets Transfer letter dated September 11, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Zachary Stacy, Manager or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Denise Davis, Executive Secretary, City of National City
Mr. Juan Perez, Senior Auditor and Controller Manager, County of San Diego
California State Controller's Office